

EXHIBIT G

1

2 IN THE UNITED STATES DISTRICT COURT
3 DISTRICT OF MINNESOTA

3

4 IN THE MATTER OF)
5 IN RE BAIR HUGGER FORCED AIR)
WARMING)
6 PRODUCTS LIABILITY LITIGATION)
7 Plaintiff,)
v.)PRETRIAL ORDER NO: 7
8)Protective Order
9)MDL No. 15-2666
3M COMPANY AND ARIZANT) (JNE/FLN)
HEALTHCARE INC.)
10 Defendant.)

11 DEPOSITION OF PAUL MCGOVERN

12 VOLUME II

13 Thursday, January 5, 2017

14 AT: FAEGRE BAKER DANIELS LLP

15 Taken at:

16 7 Pilgrim Street

17 London EC4V 6LB

18 United Kingdom

19

20 Court Reporter:

21 Louise Pepper: Accredited Real-time Reporter

22 Videographer: Simon Addinsell

23

24

25 JOB NO. 117121

1
2 APP E A R A N C E S
3
4 Appear for the Plaintiff:
5 MR. MICHAEL SACCHET
6 CIRESI CONLIN
7 225 South 6th Street
8 Minneapolis, MN 55402

9 GENEVIEVE ZIMMERMAN
10 MESHBESHER & SPENCE
11 1616 Park Avenue
12 Minneapolis, MN 55404

13 Appear for the Defendant:

14 MR. COREY GORDON
15 BLACKWELL BURKE
16 431 South Seventh Street
17 Minneapolis, MN 55415

18 MS. KATHERINE NEWMAN
19 FAEGRE BAKER DANIELS
20 7 Pilgrim Street, London EC4V 6LB

21 Appear for the Witness:

22 MR. ANDREW HEAD
23 MR. BRYAN SHACKLADY
24 FORSTERS
25 31 Hill Street
London W1J 5LS

1	W I T N E S S I N D E X
2	Examination by MR. SACCHET 239
3	Examination by MR. C. GORDON 459
4	E X H I B I T I N D E X
5	Exhibit 1 Email chain between P 263
6	McGovern and M. Albrecht, 7 Bates stamped Albrecht_0016487
8	Exhibit 2 Email chain between Mark 287
9	Albrecht, Paul McGovern, Mike Reed and others, dated 30 June to 3 July, 2010
10	Exhibit 3 Forced Air Warming 289
11	Demonstration DVD
12	Exhibit 4 CDC document entitled 298
13	"Healthcare Infection Control Practices Advisory Committee Record of the Proceedings", 14 dated November 5-6, 2015, previously marked as Exhibit 208, Bates stamped 3MBH01344612-01344685
15	Exhibit 5 Document entitled 306
16	"Forced Air Warming (FAW) and Surgical Site Contamination First Draft" dated 27/9/09
17	Exhibit 6 Document entitled "Do 308
18	Forced Air Warming Devices Increase Bacterial Contamination of Operative Field? - Simulated experimental analysis".
19	Exhibit 7 Email chain dated 8-11 309
20	November, 2009, subject line: "FAW"
21	Exhibit 8 Document Bates stamped 316
22	3MBH00107863-00107870

1	Exhibit 9 Document entitled "Do 324
2	Forced Air Warming Devices Increase Bacterial Contamination of Operative Field? - Simulated experiment analysis".
3	Exhibit 10 Email chain between 336
4	Paul McGovern and Val Edwards-Jones "Re Saturday", dated 26 November - 20 December 2009
5	Exhibit 11 Email chain between 337
6	Paul McGovern, David Leaper, Andrew Sproson and Thomas Symes, "Prof David Leaper Visit", dated 10 September - 2 December 2009
7	Exhibit 12 Email chain between 342
8	Paul McGovern and Mike Reed, dated 21 February 2010, "Laminar flow tests".
9	Exhibit 13 Article co-published by 347
10	Paul McGovern and others, entitled "Forced-air warming and ultra-clean ventilation do not mix." Bates stamped Belani_000190-000197
11	Exhibit 14 Article entitled 353
12	"Patient Warming Excess Heat: The Effects on Orthopedic Operating Room Ventilatio Performance". Bates stamped Belani_000040-000045
13	Exhibit 15 Email chain between 359
14	Mark Albrecht, Paul McGovern and others, dated 1 February 2011, "Manuscript with updated joint infection data covering an additional 200 or so".
15	Exhibit 16 Excel spreadsheet with 365
16	data analysis

1	Exhibit 17 Email chain between 372
2	Mark Albrecht, Mike Reed, Paul McGovern and others, dated 18 February - 1 March 2011, "Signatures on Transmittal Letter".
3	Exhibit 18 Email chain between 373
4	Paul McGovern and Mark Albrecht, dated 19 May - 23 May, 2011, "Fwd: JBJS [BR] log No. 27124 - Invitation to resubmit
5	Exhibit 19 Email chain "Re 382
6	McGovern" between Robin Humble, Scott Augustine, Paul McGovern and others plus attachment entitled "Observed reduction in periprosthetic joint infections: Antibiotics or warming technique?", dated 25 March - 17 June 2016.
7	Exhibit 20 Journal of Bone and 391
8	Joint Surgery document entitled "Wound Complications Following Rivaroxaban Administration".
9	Exhibit 21 Paper entitled "Return 396
10	to theatre following total hip and knee replacement, before and after the introduction of rivaroxaban".
11	Exhibit 22 Journal of 403
12	Tissueviability paper entitled "A prospective randomised study comparing the jubilee dressing method to a standard adhesive dressing for total hip and knee replacements", authored by Neil G. Burke and others.

Page 238

1 Exhibit 23 Email chain between410
 2 Mark Albrecht and Mike Reed,
 3 "Full workup of stats you
 4 requested", dated 29 November,
 5 2011.
 6
 7 Exhibit 24 Email from Mark416
 8 Albrecht to Scott Augustine,
 9 with attachment, dated
 10 11/22/2015, Bates stamped
 11 Albrecht_0002079-0002086
 12
 13 Exhibit 25 Anesthesia & Analgesia445
 14 document entitled "Patient
 15 Warming Excess Heat: Effects
 16 on OR Ventilation Performance
 17 During Total Knee
 18 Replacement", Bates stamped
 19 Belani_000002-000039
 20
 21 Exhibit 26 Email from Mark454
 22 Albrecht to Paul McGovern and
 23 others, "Fwd: A&A Decision for
 24 MS#: AA-D-11-01334", dated 25
 25 October 2011
 26
 27 Exhibit 27 Email chain between455
 28 Mark ALbrecht, Mike Reed and
 29 others, "Fwd: A&A DEcision for
 30 MS#: AA-D-11-01334R1", dated
 31 11 January 2012.
 32
 33 Exhibit 28 Spreadsheet, Bates461
 34 stamped
 35 AUGUSTINE_0005193-0005487
 36
 37 Exhibit 29 Printout of spreadsheet463
 38 data
 39
 40 Exhibit 30 Screenshots of FAW v500
 41 CWB YouTube video
 42
 43
 44
 45

Page 239

1 DR. PAUL MCGOVERN
 2 PROCEEDINGS
 3 THE VIDEOGRAPHER: This is Day 2 of the deposition
 4 of Dr. Paul McGovern. The deposition started yesterday
 5 4 January, today is 5 January 2017, and it is 9:24 a.m.
 6 This is the beginning of DVD 1 in volume 2 of Dr. McGovern's
 7 deposition. Everybody who was in the room yesterday is here
 8 today.
 9 Can I remind the witness he was sworn in
 10 yesterday and is still under oath. Can you --
 11 THE WITNESS: Yes.
 12 THE VIDEOGRAPHER: You're on the record, counsel.
 13 It is 25 past 9.
 14 EXAMINATION BY MR. SACCHET:
 15 BY MR. SACCHET:
 16 Q. Good morning, Dr. McGovern.
 17 A. Good morning.
 18 Q. As I mentioned yesterday, my name is Mr. Sacchet,
 19 and I represent the plaintiffs 3M. Yesterday my learned
 20 friend on the other side reviewed some of the ground rules
 21 for the deposition. I'm going to go through few more today,
 22 just to make sure we're on the same page with respect to the
 23 procedures for our conversation. As you know, I'll be
 24 asking you questions under oath and you'll be responding to
 25 them. If at any time you don't understand a question or if

Page 240

1 DR. PAUL MCGOVERN
 2 you don't hear the question, please let me know, okay?
 3 A. Yes.
 4 Q. As was mentioned yesterday, it's best for the
 5 record and the court reporter, if I ask a question, that you
 6 let me finish asking the question before you answer, and
 7 I'll do the same with respect to you in refraining from
 8 asking a question before you've finished your answer.
 9 Please provide audible "Yes" or "No" answers with respect to
 10 the questions as opposed to a nodding or shaking of the
 11 head. Is that agreeable?
 12 A. Yes.
 13 Q. And if at any time you need a break, just let me
 14 know, and I'll find an appropriate spot to pause.
 15 A. Sure.
 16 Q. Before we jump into your background, with respect
 17 to your educational and professional history, just a few
 18 preliminary items. You've never met me before, have you?
 19 A. Not before yesterday, no.
 20 Q. And prior to yesterday, you'd never spoken to me
 21 before, be it via e-mail or phone?
 22 A. That is correct.
 23 Q. You've never spoken to any members of the
 24 plaintiff's counsel in this matter, have you?
 25 A. That is correct.

Page 241

1 DR. PAUL MCGOVERN
 2 Q. Have you ever spoken to anyone on the side of the
 3 defense, prior to yesterday?
 4 A. I'd received communications from various people on
 5 the side of the defense. I have only communicated with them
 6 through my lawyers.
 7 Q. Okay. Do you recall who those individuals were
 8 that attended the --
 9 A. Stephen Llewellyn, from Faeger Baker Daniels.
 10 I received a LinkedIn message from a lawyer in the United
 11 States, but I don't remember their name.
 12 Q. Do you recall the content of the message?
 13 A. It was similar to the initial contact from Stephen
 14 Llewellyn, saying that 3M would like to depose me, and
 15 asking me to get back in touch to arrange that.
 16 Q. And did you get back in touch to arrange that?
 17 A. I did not reply to the LinkedIn message at all, and
 18 I replied to Stephen Llewellyn through my lawyers when
 19 I arranged legal representation.
 20 Q. Okay. So other than contact via your attorney,
 21 you've had no personal contact with anyone on the other
 22 side?
 23 A. That is correct.
 24 Q. I know you spoke a little bit yesterday about your
 25 background as well, and I'm going to review some of that

<p style="text-align: center;">Page 406</p> <p>1 DR. PAUL MCGOVERN 2 in jubilee dressing that occurred during the time in which 3 the data was collected for the McGovern study impacted 4 infection rates?</p> <p>5 MR. C. GORDON: Object to the form of the 6 question: lack of foundation, incomplete hypothetical.</p> <p>7 A. It's not possible to say, in my opinion. The 8 numbers in this study are too small. You have a number of 9 patients that is 124, and the numbers are too small to be 10 able to draw a meaningful conclusion in terms of infection, 11 with regard to these two variables, in my opinion.</p> <p>12 BY MR. SACCHET:</p> <p>13 Q. So if I could point out, to the extent that this 14 would change your mind, the asterisks which are denoted in 15 the right-hand column of the standard adhesive dressing 16 column; do you see those?</p> <p>17 A. Yes.</p> <p>18 Q. And a single asterisk stands for a P value of less 19 than 0.05; correct?</p> <p>20 A. Mm-hm, yes.</p> <p>21 Q. And a double asterisk stands for a P value of 0.01 22 and less?</p> <p>23 A. Yes.</p> <p>24 Q. And three asterisks stands for a P value of 0.001 25 or less; correct?</p>	<p style="text-align: center;">Page 407</p> <p>1 DR. PAUL MCGOVERN 2 A. Yes. 3 Q. The infection row has no such asterisk in it, 4 does it? 5 A. That's correct. 6 Q. So, because we established earlier that statistical 7 significance begins at 0.05, which is a single asterisk ... 8 A. Right. 9 Q. ... presumably this 0 percent infection rate, the 10 difference between 0 and 0 is non-significant; correct? 11 A. No, that's not how I would interpret this. There 12 is no data to draw a meaningful conclusion from. You need 13 to have some data, by my understanding, to be able to draw 14 a conclusion of statistical significance. You can't comment 15 on whether these data are statistically significant. If one 16 were designing this study purely to look at infection rates 17 between the two dressings, it is likely that the study would 18 need to include more patients and the study -- and to ensure 19 it was sufficiently powered to be able -- "powered" meaning 20 to have enough patients in it -- to see enough infections to 21 be able to draw a meaningful conclusion. 22 The fact that there were no infections in 124 23 patients is not surprising, because infection rates are 24 generally low. This is a problem of research in this 25 area. Because infection is rare, thankfully, you need</p>
<p style="text-align: center;">Page 408</p> <p>1 DR. PAUL MCGOVERN 2 large numbers of patients in studies to see if one 3 intervention has a difference with another 4 intervention, in terms of infection rates. In my 5 opinion, this study does not demonstrate superiority of 6 one adhesive dressing over another, purely in terms of 7 infection.</p> <p>8 Q. Fair enough --</p> <p>9 A. It may for other conditions, such as blistering and 10 leakage, but for infection -- because those are more 11 common -- consequences post-operation, and the study appears 12 to have been adequately powered to identify those 13 differences and state statistical significance. But for 14 infection, there were not enough incidences of infection to 15 be able to draw meaningful conclusions, or a difference 16 between the two.</p> <p>17 Q. Are you aware of any paper that is adequately 18 powered that shows that a change from a standard adhesive 19 dressing to a jubilee dressing would statistically 20 significant -- significantly alter infection rates among 21 arthroplasties?</p> <p>22 A. I am not aware of any such paper.</p> <p>23 Q. Are you aware of any published papers that 24 suggest -- I should say that find statistically significant 25 differences between joint infection rates from the use of</p>	<p style="text-align: center;">Page 409</p> <p>1 DR. PAUL MCGOVERN 2 MSSA screening versus non-screening?</p> <p>3 A. Sorry, could you say that again, please?</p> <p>4 Q. Are you aware of any evidence that is statistically 5 significant that suggests that the use of MSSA screening 6 significantly impacts the rate of deep joint infections 7 among patients?</p> <p>8 A. I'm not aware of any such papers.</p> <p>9 Q. Are you aware of any evidence that pre-warming, 10 when used in combination with intraoperative warming, 11 significantly impacts deep joint infection rates among 12 patients?</p> <p>13 A. I am not aware of papers which provide evidence of 14 that.</p> <p>15 Q. Have you seen an article by Mr. Reed and another 16 individual, bearing the last name Refaie, which analyzed the 17 NHS SSI bundle?</p> <p>18 A. I presume you mean Northumbria Foundation Trust. 19 I am aware that Mr. Reed and Mr. Refaie have done research 20 together. I may have seen such paper but I don't remember.</p> <p>21 Q. Do you recall Mr. Reed, in that paper, making the 22 statement: "A switch to the alternative conductive fabric 23 warming led to a significant decrease in deep joint 24 infections"?</p> <p>25 A. I -- that statement sounds familiar but I don't</p>